

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1409 OF 2007

St. Joseph Church & School & Ors. ...Petitioners

Versus

The Municipal Corporation of Gr.Bombay
& Ors. ...Respondents

Mr. J.Reis, Senior Counsel, with Mr. Y.R.Shah for the
petitioners.

Mr. A.Y.Sakhare, Senior Counsel, with Mr. Nasir Shaikh
for Respondent/MMC.

Ms. Kiran Bagalia for Respondent/MMRDA.

Ms. Sonali Shinde for Respondent No.8.

Mr. R.J.More for Respondent No.9/State.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATE : 29th August, 2007.

P.C.

1. We have heard learned Counsel for both the
sides.

2. It appears that the petitioners were concerned

on two counts, (1) because of the proposed construction of the Road Over Bridge and Foot Over Bridge, their property may be affected and (ii) because of the above referred construction there will be increase in the noise pollution. On behalf of the Corporation, an affidavit has been filed. Para 4(f) of that affidavit reads as under :-

"(f) I say that as per letter dated 14.3.2005 the Petitioner raised number of points, involving suggestions and objections which was replied by Respondent by their letter dated 31.3.2005. In the said letter it was clarified that ROB is proposed in lieu of level crossing No.14-ML and neither school nor church property is affected. Further with regard to Environmental and design aspect, Church Authority was requested to refer the matter to MMRDA. I say that the Petitioner has annexed letter of Respondent dated 31.3.2005 at Exhibit P to the petition. I crave leave to refer to and rely upon the said letter dated 31.3.2005 as and when produced."

In view of the above statement, the learned Counsel for the petitioners states that the concern of the petitioners about their property being adversely affected does not survive.

3. The second aspect because of which the petitioners were concerned was about increase in noise pollution. So far as this aspect of the matter is concerned, the learned Counsel appearing for the Corporation states that in case the petitioners make a representation to the Corporation in that regard placing all the material that they want to rely on before the Corporation, the Corporation is willing to consider the representation and make orders thereon in accordance with law. He further states that the work of actual construction will not be started until the representation is decided.

4. The learned Counsel appearing for the petitioners states that within a period of two weeks from today, the petitioners shall submit their representation to the Corporation. The learned Counsel for the Corporation states that the representation shall be decided in accordance with law as expeditiously as possible, in any case, within a period of four weeks from the date on which the representation is received. The statements made by the learned Counsel are accepted.

In view of the above, the Petition is disposed of.

(D. K. DESHMUKH, J)

(J.H.BHATIA, J.)